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Letter dated 19 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from the United States of America, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

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Annex

[Original: English]

United States of America

Report of the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001) of 28 September 2001: implementation of resolution 1373 (2001)

INTRODUCTION AND SUMMARY

On the day after the heinous September 11 terrorist attacks in Washington and New York, the General Assembly of the United Nations, by consensus of the 189 member states, called for international cooperation to prevent and eradicate acts of terrorism and to hold accountable the perpetrators and those who harbor or support them. That same day, the United Nations Security Council unanimously determined, for the first time ever, any act of international terrorism to be a threat to international peace and security. This determination laid the foundation for Security Council action to bring together the international community under a common set of obligations in the fight to end international terrorism.

On September 28, 2001, the Security Council unanimously adopted Resolution 1373 under Chapter VII of the Charter of the United Nations. This historic resolution established a body of legally binding obligations on all UN member states. It defined the common core of the new international campaign to deal with international terrorists, their organizations, and those who support them.

Its provisions require, among other things, that all member states prevent the financing of terrorism and deny safe haven to terrorists. States will need to review and strengthen their border security operations, banking practices, customs and immigration procedures, law enforcement and intelligence cooperation, and arms transfer controls. All states are called upon to increase cooperation and share pertinent information with respect to these efforts. Resolution 1373 also mandated that each state report on the steps it had taken, and established a committee of the Security Council to monitor implementation. The committee will highlight best practices, identify gaps, and help coordinate advice and assistance to states that need it.

Full implementation of resolution 1373 will require each UN member state to take specific measures to combat terrorism. Most states will have to make changes in their laws, regulations, and practices. Those with the capacity to assist in these changes will be needed to help those who lack the expertise and resources to achieve full implementation. As this report that follows makes clear, the United States is ready to provide technical assistance to help in these efforts. We will work closely with other nations who also have the capacity to assist, and with those seeking assistance. Cooperation is key to success.

It will be especially important that these efforts be sustained in the coming months and years. The goal should be to ensure through the UN that enduring mechanisms are created, and that existing institutions are utilized, to raise the capabilities of all nations to confront the threat of terrorism. As UNSCR 1373 recognizes, there will be a need for enhanced coordination of efforts on national, subregional, regional and global levels.

The United States is waging a broad-ranging campaign both at home and abroad against terrorism, including by taking military action in Afghanistan. As another way of combating terrorism internationally, the United States strongly supports UNSCR 1373 and the Counter Terrorist Committee set up by the resolution, and wishes to see full implementation by all states. As President Bush has promised: "We will direct every resource at our command -- every means of diplomacy, every tool of intelligence, every instrument of law enforcement, every financial influence, and every necessary weapon of war -- to the disruption and to the defeat of the global terror network."

Our report details only some of the many steps that we have been taking to combat terrorism and comply with UNSCR 1373. But, we intend to do even more to ensure that we have taken all

appropriate measures. The following is a list of some of the steps taken, which are detailed in this report.

Steps taken by the U.S.

- On September 23, Executive Order (E.O.) 13224, froze all the assets of 27 foreign individuals, groups, and entities linked to terrorist acts or supporting terrorism and authorized the freezing of assets of those who commit, or pose a significant threat of committing, acts of terrorism.

- On September 28, the U.S. sponsored the UN Security Council Resolution 1373, calling on all UN members to criminalize the provision of funds to all terrorists, effectively denying terrorists safe financial haven anywhere.

- On October 5, the Secretary of State, in consultation with the Attorney General and the Secretary of the Treasury, redesignated 25 terrorist organizations (including al-Qaeda) as foreign terrorist organizations pursuant to the Antiterrorism and Effective Death Penalty Act of 1996. Giving material support or resources to any of these foreign organizations is a felony under U.S. law.

- On October 12, the U.S. added 39 names to the list of individuals and organizations linked to terrorism or terrorist financing under E.O. 13224.

- On October 26, the U.S. enacted the USA PATRIOT Act, which significantly expanded the ability of U.S. law enforcement to investigate and prosecute persons who engage in terrorist acts.

- On October 29, the U.S. created a Foreign Terrorist Tracking Task Force aimed at denying entry into the U.S. of persons suspected of being terrorists and locating, detaining, prosecuting and deporting terrorists already in the U.S.

- On November 2, the U.S. designated 22 terrorist organizations located throughout the world under E.O. 13224, thus, highlighting the need to focus on terrorist organizations worldwide.

- On November 7, the U.S. added 62 new organizations and individuals, all of whom were either linked to the Al Barakaat conglomerate or the Al Taqwa Bank, which have been identified as supplying funds to terrorists.

- On December 4, the U.S. froze under E.O. 13224 the assets and accounts of the Holy Land Foundation in Richardson, Texas, whose funds are used to support the Hamas terrorist organization, and two other entities, bringing the total to 153.

- On December 5, the Secretary of State designated 39 groups as "terrorist organizations" under the Immigration and Nationality Act, as amended by the new USA PATRIOT Act, in order to strengthen the United States' ability to exclude supporters of terrorism or to deport them if they are found within our borders. We call the list of such designated organizations the "Terrorist Exclusion List."

- The U.S. has signed and expects to ratify in the near future the UN Convention for the Suppression of the Financing of Terrorism and the UN Convention for the Suppression of Terrorist Bombings.

- The U.S. has met with numerous multilateral groups and regional organizations to accelerate the exchange of operational information laid out in UNSCR 1373.

- The U.S. has stepped up bilateral information exchanges through law enforcement and intelligence channels to prevent terrorist acts and to investigate and prosecute the perpetrators of terrorist acts.

- Our Federal Bureau of Investigation has created an interagency Financial Investigation Group to examine the financial arrangements used to support terrorist attacks. The FBI headquarters houses this group, which includes analysts and investigators from numerous federal agencies and federal prosecutors with backgrounds in investigating and prosecuting financial crimes.

- The U.S. brought to conclusion the prosecution of four al-Qaeda members for the bombing of U.S. embassies in Dar es Salaam and Nairobi.

- We have designed a new tamper-resistant U.S. visa, and we have upgraded passports to prevent photo substitution.

- We have intensified border discussions with Canada and Mexico to improve border security.

UNSCR 1373 Operative Paragraph 1

1(a): What measures if any have been taken to prevent and suppress the financing of terrorists acts in addition to those listed in your responses to questions on 1(b) to (d)?

The assault on the financial underpinnings of terrorism is central to U.S. efforts to fight terrorists and their supporters with every available weapon. Through the September 23 Executive Order freezing U.S. assets of designated individuals and organizations that commit terrorist acts or fund terrorism, and other measures, the U.S. is taking concrete actions internally to combat the financing of terrorist entities. The U.S. also works closely with governments around the world in identifying and freezing terrorists' assets. The U.S. has contacted almost every other UN Member State to encourage them to identify and freeze terrorist assets through implementation of the UN Security Council Resolutions and other means. A list of U.S. actions is set forth below.

Freezing of Terrorist Assets

- President George W. Bush signed **Executive Order (E.O.) 13224**[1] **on September 23** pursuant to his authority under the International Emergency Economic Powers Act (IEEPA). This order blocks all property and interests in property of foreign persons and entities designated by the President in the Order, or designated by the Secretary of State as committing, or posing a significant risk of committing, acts of terrorism threatening the security of U.S. nationals or U.S. national security, foreign policy, or economy, if that property is either within the U.S. or within the possession or control of U.S. persons.

- The Order also blocks the property and interests in property of persons determined by the Secretary of the Treasury to provide support or services to, or to be associated with, any individuals or entities designated under the Order. The Secretary of the Treasury may also block property and interests in property of persons determined to be owned or controlled by, or to act for or on behalf of, persons designated in or under the E.O. Any transaction or dealing by U.S. persons or within the U.S. in property and interests in property blocked pursuant to the Order is prohibited.

- The Order directs the U.S. Government to cooperate and coordinate with foreign governments to suppress and prevent terrorism, to deny financial services and financing to terrorists, and to share intelligence about terrorist financing.

- Under **Section 219 of the Immigration and Nationality Act**[2] (as amended by the Antiterrorism and Effective Death Penalty Act of 1996), the Secretary of State may, in consultation with the Attorney General and the Secretary of the Treasury, designate an organization as a Foreign Terrorist Organization ("FTO") if the organization is a "foreign organization" that "engages in terrorist activity" that "threatens the security of U.S. nationals or the security of the United States". The Department of the Treasury may require U.S. financial institutions possessing or controlling assets of designated FTOs to block all financial transactions involving these assets. Further, it is a federal crime to provide material support to designated FTOs, and certain members of these FTOs are not allowed to enter or remain in the U.S.

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[1] For further information on U.S. laws, see the following web sites:
http://www.access.gpo.gov/su_docs/aces/dcff001.html#usc (for a database index);
http://www.access.gpo.gov/congress/cong013.html (for U.S. Codes (U.S.C.)); and,
http://www.access.gpo.gov/su_docs/aces/dcff001.html#cfr (for the Combined Federal Register (CFR))

[2] 8 U.S.C. § 1189

- Under **Executive Order 12947 of January 23, 1995**, as amended by E.O. 13099 of August 20, 1998, the President designated sixteen organizations, and authorized the Secretary of State to designate additional foreign individuals or entities who have committed, or pose a significant risk of committing, acts of violence with the purpose or effect of disrupting the Middle East peace process, or who have provided support for or services in support of such acts of violence. Designations of terrorism-related organizations and individuals pursuant to the Order, as amended, have continuing validity as actions taken in the U.S. consistent with the objectives of UNSCR 1373.

  The Order further authorized the Secretary of the Treasury to block the property of persons determined to be owned or controlled by, or acting for or on behalf of, persons designated in or under the Order. All property and interests in property of persons designated under the Order in the U.S. or in the control of U.S. persons are blocked. Any transaction or dealing in such blocked property is prohibited.

Designated Terrorists and Their Supporters

- E.O. 13224 includes an annex listing 27 organizations and individuals whose assets are blocked by the E.O. because of their ties to terrorism. An additional 39 individuals and organizations were added on October 12. On November 2, we added to the list 22 terrorist organizations already designated as FTOs, but not previously designated under the Order; 62 more individuals and entities were added on November 7, and three additional entities were listed on December 4, bringing the total to 153. The list will be updated periodically. In addition, a total of 28 terrorist organizations have been designated as FTOs, and 16 individuals and entities have been designated under E.O. 12947.

Improved Coordination at Home

- The U.S. is improving coordination and information sharing internally. The Foreign Terrorist Asset Tracking Center (FTAT), in the Office of Foreign Assets Control at the Department of Treasury, identifies the financial infrastructure of terrorist organizations worldwide to curtail their ability to move money through the international banking system.

- The Federal Bureau of Investigation (FBI) has broadened its investigative efforts on the financial front, in terrorists' use of money laundering, electronic transactions, cyberbanking, and trafficking in valuable gems.

Improving Domestic Tools to Stop Financing Terrorism

- On October 26, President Bush signed into law the **USA PATRIOT Act**,[3] providing for broad new investigative and information sharing between law enforcement and intelligence agencies with respect to terrorist financing. It expands the scope of U.S. regulations against money laundering by requiring securities brokers and dealers to file suspicious activity reports and gives new power to act against money laundering havens. The PATRIOT Act also expands the President's powers to confiscate property under the International Emergency Economic Powers Act (IEEPA) when the U.S. is engaged in armed hostilities or has been attacked.

International Cooperation, Outreach and Coordination

- The U.S. is working to improve international sanctions and anti-money laundering coordination, notably through a multilateral sanctions administrators coordinating group which meets regularly

[3] "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Acts of 2001," Pub. L. No. 107-56, H.R. 3162, 107th Congress (2001)

with the Treasury Department's Office of Financial Assets Control on U.S. and European Union sanctions.

- The U.S. has strong outreach programs to encourage other nations to join this effort. Senior officials have urged strong action in support of the global effort against terrorist financing, including removal of legal or other barriers that might hinder cooperative efforts.

- The U.S. will seek to respond to requests for technical assistance to block terrorist assets, cut off terrorist fund flows, and prevent fund-raising activities which benefit terrorists.

- The U.S. has signed and expects to ratify in the near future the UN Convention for the Suppression of the Financing of Terrorism. Also, the U.S. is a signatory to the UN Convention against Transnational Organized Crime.

Important International Initiatives in which the U.S. Plays a Role

- The U.S. and European Union have developed unprecedented cooperation on counterterrorism since September 11, including close cooperation on the freezing of the assets of terrorists and their supporters, as well as increased assistance in investigations and the sharing of information among law enforcement authorities, increased coordination of measures to strengthen aviation security, further exchanges of ideas on tightening border controls, and increased contact between key judicial and police organizations. Also, a U.S.-EUROPOL Agreement was signed in early December, facilitating the exchange of analytical data.

- The Secretary of State joined with the Foreign Ministers of the other members of the Organization of the American States to approve a resolution on September 21 condemning the terrorist acts of September 11 and expressing the need for hemispheric solidarity and effective measures against terrorism. On October 15, the Inter-American Committee Against Terrorism (CICTE) formed a sub-committee to increase cooperation in tracking the financial assets of terrorists and their supporters. These recommendations will be approved at the CICTE Regular Session in January.

  -- In addition, the Foreign Ministers of States Parties to the Inter-American Treaty of Reciprocal Assistance ("Rio Treaty") adopted a Resolution on September 21 restating their commitment of reciprocal assistance and affirming that measures being taken by the U.S. and other states in reaction to the terrorist attacks of September 11 were in the exercise of their inherent right of individual and collective self-defense.

- In Shanghai last October, leaders of the Asia Pacific Economic Cooperation (APEC) forum responded to President Bush's call for a coalition to defeat terrorism with a strong statement condemning the terrorist attacks in the U.S. They also committed APEC members to implement relevant UN conventions and resolutions and to take specific steps to stop the flow of funds to terrorists and their supporters, and to steps to ensure aviation and maritime security, strengthen energy security, and enhance border security and customs enforcement.

Among the other important initiatives that we participate in are:

- The G-7 finance ministers issued a comprehensive action plan on terrorist financing on October 6, calling for a special Financial Action Task Force (FATF) plenary on October 29-30, and an Egmont Group meeting on October 31. G-7 countries have called for increased international coordination and efforts to combat terrorist financing.

- At its plenary on October 29-30, FATF adopted eight special recommendations focused on combating terrorist financing, and then adopted an action plan to implement them. The overall FATF effort will be reviewed when FATF next meets in Hong Kong in January 2002.

- At its October 31 meeting, the 58 member nations of the Egmont Group of financial intelligence units agreed to expand information sharing on terrorist financing.

- The Finance Ministers and Central Bank Governors of the G-20 adopted on November 17 a comprehensive action plan of multilateral cooperation to deny terrorists and their associates access to, or use of, their financial systems, and to stop any abuse of informal banking networks. The plan also calls on G-20 countries to make public the lists of terrorists whose assets are subject to freezing, and the amount of assets frozen. The Manila Framework Group formally endorsed the G-20 Action Plan during its December 2001 meetings.

- The International Monetary Fund (IMF) has expanded its activities to include efforts aimed at countering terrorist financing. In its November 17 Communiqué, the International Monetary and Financial Committee of the Board of Governors (the IMFC) called on each IMF member to freeze all terrorist assets within its jurisdiction and to implement fully UNSCR 1373. Members should publish monthly reports by February 1, 2002, listing terrorist assets subject to freezing and the amount of assets frozen. Also, the IMF will expand efforts to help countries review and optimize their financial, legal, and institutional frameworks to help ensure that all avenues are closed to terrorism.

- Within the G-8, the Counter-terrorism Experts Group and the Lyon Group held a second special joint session on November 18-20, adding concrete actions, timelines, and responsibilities to the 25-point G-8 Counter-terrorism Action Plan developed earlier by the two groups. The Plan would advance the fight against terrorism in the areas of aviation security, judicial cooperation, and law enforcement. The Groups meet again in February.

- In the area of international aviation security, we participate in the Aviation Security (AVSEC) panel of the International Civil Aviation Organization (ICAO) to enhance worldwide aviation security standards. We will participate in the ICAO Ministerial Conference next February to establish an ICAO audit plan for compliance with Annex 17 to the Chicago Convention (on safeguarding civil aviation against acts of unlawful interference), to upgrade certain recommended security practices, and to seek a greater level of participation in voluntary contributions to the AVSEC fund.

1(b): What are the offences and penalties in your country with respect to the activities listed in this sub-paragraph?

There are several sources of legal authority for the U.S. government to rely upon in imposing civil and criminal penalties for the provision and collection of funds to provide support to terrorists. These include both laws prohibiting material or other support to terrorists and their supporters, and money laundering laws addressing a variety of criminal activity, including the unlawful movement of money without proper reports.

Providing Support to Terrorism

- Providing "material support" to terrorists or terrorist organizations has been prohibited as a crime since the enactment of the Antiterrorism and Effective Death Penalty Act of 1996. As a result of

the October 26, 2001 enactment of the antiterrorism bill known as the "USA PATRIOT Act", there is now specific authority to forfeit terrorist assets as well, thus providing a direct means to deprive terrorists of their funds.

- U.S. law makes it a crime to provide material support or resources within the U.S. to a person intending that the support or resources will be used, or is in preparation for, the commission of a wide variety of specified terrorism-related crimes.[4] "Material support or resources" is very broadly defined and means "currency or other financial securities, financial services, lodging, training, expert advice or assistance, safe houses, false documentation or identification, explosives, personnel, transportation, and other physical assets, except medicine or religious materials."[5]
- Property provided as "material support" to a terrorist in violation of 18 U.S.C. § 2339A is subject to forfeiture if it is involved in a transaction or attempted transaction in violation of 18 U.S.C. § 1956-57, or if it is the proceeds of a section 2339A offense.[6]
- In addition, U.S. law[7] prohibits the provision of "material support" to a Foreign Terrorist Organization.[8] A Foreign Terrorist Organization (FTO) may be designated pursuant to section 219 of the Immigration and Nationality Act.[9] Al-Qaida has been designated as an FTO. When a financial institution becomes aware that it has possession of, or control over, any funds in which a Foreign Terrorist Organization, or its agent, has an interest, it shall retain possession or control over the funds, and report the existence of such funds to the Secretary of the Treasury. Failure to do so may result in civil penalties.
- Finally, providing prohibited "material support" is punishable criminally by 15 years imprisonment and/or a fine of up to $250,000 for individuals and $500,000 for organizations.

Money Laundering and Currency Reporting

- Property brought into or taken out of the United States with the intent to promote one of the terrorist acts or other crimes constituting a Specified Unlawful Activity is subject to civil forfeiture.[10] For example, if U.S. Customs agents learned during an investigation that funds raised in the U.S. were sent, or were attempted to be sent, abroad to fund a terrorist action, or funds came into the United States for such a purpose, the funds would be forfeitable.
- Currency and other monetary instruments, including a deposit in a financial institution traceable to those instruments, may be forfeited[11] when a required Currency Monetary Instrument Report has not been filed properly. Pursuant to the USA PATRIOT Act, there is now specific authority to forfeit currency and other monetary instruments if someone "knowingly conceals" those instruments to evade a reporting requirement.[12] The U.S. plans to pursue that authority fully.
- Any person who violates any license, order, or regulation issued pursuant to the International Emergency Economic Powers Act (IEEPA), *i.e.*, the authority under which the President issued Executive Orders 13224 and 12947, may be subject to civil fines, and those who willfully violate, or willfully attempt to violate, any license, order or regulation issued pursuant to IEEPA may be subject to criminal penalties including fines or imprisonment.

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[4] 18 U.S.C. § 2339A
[5] 18 U.S.C. § 2339A
[6] 18 U.S.C. § 981(a)(1)(A) would authorize forfeiture for the transaction offense, and 18 U.S.C. § 981(a)(1)(C) would authorize forfeiture for the proceeds offense.
[7] 18 U.S.C. § 2339B
[8] 12 U.S.C. § 2339B
[9] 8 U.S.C. § 1189
[10] 18 U.S.C. § 981(a)(1)(A) (as property involved in a violation of 18 U.S.C. § 1956(a)(2)(A)
[11] 31 U.S.C. § 5317(e)
[12] 31 U.S.C. § 5332 (the new Bulk Cash Smuggling offense)

1(c): What legislation and procedures exist for freezing accounts and assets at banks and financial institutions?

President George W. Bush signed Executive Order (E.O.) 13224 on September 23 pursuant to his authority under the International Emergency Economic Powers Act (IEEPA). This Order allows for the blocking of property and interests in property of all persons designated pursuant to the Order. Such designations include terrorists, as well as those who provide support or services to, or associate with, persons with terrorism-related links. (See the response to Paragraph 1.a in this report for further detail on E.O. 13224 and other, related measures.)

E.O. 13224 also charged the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, with responsibility for its implementation, including the promulgation of regulations related to the sanctions.

Therefore, designated terrorist property and interests in property, including funds and financial assets or economic resources, within the U.S. or in the possession or control of a U.S. person, are blocked. Any transaction or dealing in the U.S. or by U.S. persons in such blocked property and interests in property are prohibited. Transactions intended to evade the prohibitions imposed in the Executive Order also are prohibited.

- Between September 11 and December 6, 2001, the U.S. blocked a total of 79 financial accounts within the U.S., pursuant to E.O. 13224. The accounts totaled $33.7 million.
- Included in those actions was the November 7 blocking by the Department of the Treasury of the property and interests in property of several financial institutions and accounts -- primarily those of the "Al Barakaat" organization.
- Executive Order 13224 complements and builds upon other legal measures that impose sanctions on terrorists and their supporters. In particular, several terrorists designated under E.O. 13224, and subject to its sanctions, were previously designated in or pursuant to E.O. 12947, as amended.[13] (See the response to Paragraph 1.a in this report for further detail.)
- Blocked property, including blocked funds, that a U.S. person imports, exports, or attempts to import or export may be seized and forfeited by the U.S. Customs Service, as may any merchandise imported contrary to the sanctions.[14] Any conveyance or thing (e.g., a container) facilitating such importation may be seized and forfeited, and any person concerned in the unlawful activity is subject to a penalty equal to the value of the imported goods.[15] U.S. Customs also may seize and forfeit arms, munitions, or "other articles" exported, or attempted to be exported, in violation of law.

1(d): What measures exist to prohibit the activities listed in this sub-paragraph?

- President George W. Bush signed Executive Order (E.O.) 13224 on September 23 pursuant to his authority under the International Emergency Economic Powers Act (IEEPA). This Order allows for the blocking of property and interests in property of all persons designated pursuant to the Order. Such designations include terrorists, as well as those who provide support or services to, or associate with, persons with terrorism-related links. (See the response to Paragraph 1.a in this report for further detail on E.O. 13224 and other, related measures.)

[13] See, e.g., 31 Combined Federal Register (C.F.R.) Part 597
[14] 19 U.S.C. § 1595a
[15] See also 18 U.S.C. § 545 (civil forfeiture for articles imported contrary to law)

- The U.S. Customs Service has formed a financial anti-terrorism task force, known as Operation GREEN QUEST, to identify, disrupt, and dismantle the financial infrastructure of terrorist organizations. In November 2001, Operation GREEN QUEST -- composed of investigators and analysts from U.S. Customs, the Internal Revenue Service (IRS), the Federal Bureau of Investigation (FBI), and the Treasury Department's Office of Financial Assets Control (OFAC) -- coordinated five search warrants. Concurrently, several businesses had their activities and their bank accounts ($1.3 million USD) blocked, i.e., frozen. Intelligence and investigation had indicated the businesses and accounts were paying fees to terrorist organizations. The funds were frozen based on Executive Order 13324 and routine judicial procedures were used to further the criminal prosecution of the individuals and businesses involved.

UNSCR 1373 Operative Paragraph 2

2(a): What legislation or other measures are in place to give effect to this sub-paragraph? In particular, what offences in your country prohibit (i) recruitment to terrorist groups and (ii) the supply of weapons to terrorists? What other measures help prevent such activities?

Recruitment

Conspiracy and other laws make it illegal to solicit a person to commit a terrorist act or other crime.[16] Recruiting for membership in a terrorist organization is grounds for denying a visa.[17] A foreign national who enters the United States and is later found in violation of these prohibitions is subject to deportation.

Weapons

- U.S. law contains criminal prohibitions on the acquisition, transfer and exportation of certain firearms.[18] Numerous state and local laws also apply.
- The U.S. Government also requires licenses for the export of defense articles (which includes technical data) and defense services pursuant to the Arms Export Control Act (AECA),[19] which counters the illicit transfer of U.S.-origin defense items to any unauthorized person. Violations of the AECA or its implementing regulations can result in civil and criminal penalties.
- It is a crime under U.S. law to provide material support such as funding and weapons for a terrorist act or to an organization designated by the Secretary of State as a foreign terrorist organization.[20] It is also grounds for denying a visa or removing an individual from the U.S.[21]
- The U.S. government also applies controls to exports and re-exports of sensitive U.S.-origin dual-use items and nuclear-related items pursuant to the statutory authorities of the Department of Commerce and the Nuclear Regulatory Commission. The Department of the Treasury administers and enforces economic sanctions against designated terrorists and those determined to be linked to such terrorists. These sanctions prohibit any transactions or dealings in property or interests in property of terrorism-related entities or individuals, including the exportation or re-exportation of any goods or technology either from the U.S. or by U.S. persons. Violations of these laws or their implementing regulations can result in civil or criminal penalties.

Other Measures

- The U.S. uses a full range of counterterrorism and counterintelligence techniques in preventing terrorist acts, including the use of human and technical sources; aggressive undercover operations; analysis of telephone and financial records; mail; and physical surveillance.
- The intelligence community also tracks terrorist organizations overseas, including attempts to recruit members, and the movement of weapons intended for terrorists and proposed sales to terrorist countries.
- The Customs Service (USCS) exchanges information with companies involved in the manufacture, sale, or export of: munitions or arms, explosive or sensitive materials, restricted communication technologies or equipment, or components of weapons of mass destruction. The USCS meets with

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[16] 18 U.S.C. § 373 makes it a criminal offense to solicit a person to commit a violent crime.
[17] §212(a)(3)(B)(iv)(V) of the Immigration and Nationality Act (INA), 8 U.S.C. §1182
[18] Title 18 of the U.S.C. (Chapter 44 – Firearms) 18 U.S.C. §§ 921, et seq.
[19] 22 U.S.C. §2778 and the International Traffic in Arms Regulations (ITAR)
[20] 18 U.S.C. §§ 2339A, 2339B. Penalties for each violation can include criminal fines and imprisonment of up to fifteen years. As of December 4, 2001, 28 groups are designated as Foreign Terrorist Organizations.
[21] §212(a)(3)(B)(iv)(V) of the Immigration and Nationality Act (INA), 8 U.S.C. §1182

industry experts to obtain their assistance in controlling the export of U.S.-origin high technology and munitions items. This partnership between government and industry enhances national security and fosters effective export controls.

2(b): What other steps are being taken to prevent the commission of terrorist acts, and in particular, what early warning mechanisms exist to allow exchange of information with other states?

U.S. law enforcement and intelligence agencies have many active and aggressive information sharing programs to prevent terrorist acts. Congress has mandated expansion of international information sharing on immigration and law enforcement matters in support of worldwide anti-terrorism efforts. Many nations cooperate actively with the U.S. in fighting terrorism.

- Prior to September 11, the U.S. regularly exchanged information on terrorists and specific indications of threats in other states with their intelligence agencies. Since September 11, we have provided expanding streams of information regarding the responsibility for those terrorist attacks, and information about specific terrorist identities and activities through liaison channels. A principal objective is to share vital anti-terrorist information in as timely and effective a manner as possible.
- With some allied governments we share data through bilateral arrangements on known and suspected terrorists to prevent the issuance of visas and to strengthen border security. Expansion of this program is anticipated. We use this program to preclude visa issuance to terrorists, to warn embassies overseas about certain applicants, to alert intelligence and law enforcement agencies, and to enable immigration and customs officials at ports of entry to detect terrorists who may have obtained visas.
- The Immigration and Naturalization Service (INS) has law enforcement officers stationed abroad who conduct liaison with host government immigration, police and security services. INS also maintains a fulltime presence at INTERPOL, working actively with other federal agents in providing information to police agencies worldwide. INS also has bilateral information-sharing arrangements with certain of its counterpart immigration services.
- The Legal Attaché program of the Federal Bureau of Investigation (FBI) enables it to share information on a broad and timely basis. Direct lines of communication have been established between the U.S. and many countries to coordinate investigative resources worldwide.
- The private sector is included in the dissemination of information of possible terrorist threats, particularly in international financial and technology transfer matters related to terrorist activity.
- The FBI has established a Counterterrorism Division to further enhance the FBI's analysis, information-sharing, and investigative capabilities. The FBI is publicizing wanted terrorists through various programs including the Top Twenty Terrorist Program.
- The FBI has created an interagency Financial Investigation Group to examine the financial arrangements used to support the terrorist attacks. The FBI headquarters houses this group, which includes analysts and investigators from numerous federal agencies and federal prosecutors with backgrounds in investigating and prosecuting financial crimes.

2(c): What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this sub-paragraph?

Our legislation contains provisions prohibiting admission of foreign nationals who have engaged in terrorist activity. It provides for removal of such persons if they are in the U.S. Also, foreign nationals who are closely associated with or who support terrorist activity can also be denied admission or removed in certain circumstances (e.g. foreign nationals who act as representatives of foreign terrorist organizations or of certain groups that publicly endorse acts of terrorism).

- For immigration purposes, the "terrorist activity" definition includes any unlawful act involving: hijacking; sabotage; detention under threat for the purpose of coercion (of a government or an individual); violent attack on an internationally protected person; assassination; the use of biological, chemical, or nuclear weapons; or the use of explosives, firearms, or any other weapon or dangerous device with the intent to cause harm to individuals or damage to property. The attempt or conspiracy to commit these acts is also included as "terrorist activity."
- The law defines "engage in terrorist activity" broadly to include committing, inciting, preparing or planning a terrorist activity; gathering target information; soliciting funds or resources for terrorist activity or a terrorist organization; soliciting an individual to engage in terrorist activity or to join a terrorist organization; and affording material support (e.g. a safe house, transportation, communications, funds, funds transfer), false documentation or identification, weapons, or training for the commission of terrorist activity to a person who has committed terrorist activity, or to a terrorist organization.
- The Department of State and the Immigration and Naturalization Service work together with other agencies to maintain a robust database of terrorists and terrorism supporters, to prevent them from receiving visas or gaining access to the U.S.
- There are additional terrorism-related grounds for denying admission to the U.S. Terrorists are ineligible, for example, for temporary protected status, and asylum and refugee status (see the response in this report to paragraph 3(f) below). There are also provisions in the U.S. Criminal Code, and the Immigration and Nationality Act, to prosecute those who harbor or smuggle alien terrorists, or who provide them with material support (including immigration or other identity documents). In addition, foreign nationals who provide material assistance to, or solicit it for, certain designated terrorist organizations are inadmissible to the United States or may be deported if previously admitted. Thirty-nine Terrorist Exclusion List organizations were designated on December 5, 2001 for this purpose.
- As an example of relevant actions, U.S. immigration authorities have excluded from the U.S. foreign nationals based upon classified information relating to terrorist activity. Some of the cases involved attempted entry with fraudulent passports; others involved immigrants without a valid immigrant visa.

2(d): What legislation or procedures exist to prevent terrorists acting from your territory against other states or citizens?

Numerous laws address the threat of terrorists acting from U.S. territory against citizens or interests of other states. Terrorist financing and money laundering laws (see section on paragraph 1 above) are very useful in countering such situations as providing material support or resources. The provision, in the U.S., of material support to a foreign terrorist organization is a serious crime under U.S. law and allows us to take actions which also benefit the anti-terrorist efforts of our overseas partners in the fight against terrorism. Recently, the U.S. has damaged the overseas operations of Mujahadin E-Khalq, the

Provisional Irish Republican Army, Hizballah and other foreign terrorist organizations by criminally charging people in the U.S. with providing or attempting to provide material support or resources to those organizations. On December 4, 2001 we shut down a Texas-based fundraising operation whose activities benefited the terrorist activities of Hamas in the Middle East.

- It is a crime to provide, attempt, or conspire to provide within the U.S. material support or resources, or to conceal or disguise the nature, location, source or ownership of resources, knowing or intending that they are to be used in the commission or preparation of a wide variety of specified terrorist related crimes.[22] Material support or resources is very broadly defined and includes, for example, monetary instruments, financial services, lodging, training, documentation, communications, weapons, personnel, transportation, and other physical assets (except medicine or religious materials).
- It is a crime to knowingly provide or attempt or conspire to provide material support or resources to a designated foreign terrorist organization. Again, material support or resources is very broadly defined.[23] U.S. jurisdiction is extraterritorial and the statute specifically contemplates the movement of material support or resources from the U.S. to a foreign terrorist organization outside the U.S.
- Providing or collecting funds for the use of terrorists or terrorist organizations is also a violation of the law.[24] Transactions need not be entirely domestic, but rather can be, and in some cases must be, international to meet the elements of the violation.[25] (See the response to paragraph 1 in this report for details.)
- In addition to the substantial terms of incarceration and the criminal and civil fines imposed for the above violations, the code also authorizes the U.S. to seize and forfeit funds and other assets involved in violations of §§ 1956, 1957, 2339A, and 2339B and funds or assets in which terrorists or terrorist organizations have an interest.[26] The code also includes numerous crimes that may be charged against individuals who act from the U.S. against the citizens of another country or against the interests or facilities of another country, regardless of whether those citizens, facilities or interests are located within the U.S. or within that other country.[27]
- Also, the 50 states each have criminal codes that may enable them to punish people who conspire within their borders to commit serious, terrorist-related crimes beyond the borders of the U.S.

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[22] 18 U.S.C. § 2339A. Penalties for each violation can include criminal fines and incarceration of up to fifteen years.

[23] 18 U.S.C. § 2339B. Penalties for each violation can include criminal fines and incarceration of up to fifteen years.

[24] 18 U.S.C. §§ 1956 and 1957

[25] Penalties for each violation can include enhanced criminal fines and incarceration of up to twenty years. Section 1957 makes it a crime to engage in a monetary transaction in property derived from specified unlawful activity, such as 18 U.S.C. §§ 2339A and/or 2339B. Transactions under § 1957 need not be entirely domestic, but can be, and in some cases must be, international to meet the elements of the violation. Penalties for each violation can include criminal fines and incarceration of up to ten years.

[26] 18 U.S.C. §§ 981 and 982

[27] For example, 18 U.S.C. § 956 makes it a crime to conspire to kill, maim, or injure persons or damage property in a foreign country; 18 U.S.C. § 2332b makes it a crime to engage in acts of terrorism transcending national boundaries; 18 U.S.C. § 2332a(b) makes it a crime for a national of the United States to use certain weapons of mass destruction outside the United States; 18 U.S.C. § 1116 the murder or manslaughter of foreign officials, official guests, or internationally protected persons a crime; 18 U.S.C. § 1119 makes a foreign murder of a U.S. national a crime; 18 U.S.C. § 32 makes it a crime to destroy aircraft of aircraft facilities within or outside the U.S.; and finally, 49 U.S.C. §§ 46502 - 46507 make it a crime to engage in aircraft piracy or carry a weapon or explosive on an aircraft.

2(e): What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts?

Terrorist acts are among the most serious offenses under U.S. law. Violent, terrorist-related crimes generally carry substantially higher criminal penalties and can lead to imposition of the death penalty, or life imprisonment.[28]

- Earlier this year, after convicting four members of al-Qaida for the bombing of the U.S. embassies in Nairobi and Dar es Salaam, a federal jury in New York City recommended life imprisonment for all four.
- Depending on the defendant's acts, his criminal history, and his willingness to cooperate with authorities, there is a range of sentences from which the sentencing judge may select. In recent years, we have not imposed the death penalty in a federal international terrorism prosecution.
- Terrorist financing statutes carry substantial criminal fines and considerable periods of incarceration.[29] There is only one such case in which a sentence has been imposed. In that case, a U.S.-based individual was assisting immigrants (including at least one affiliated with a foreign terrorist organization) to fraudulently obtain enhanced immigration status. The defendant pled guilty and agreed to cooperate with federal authorities. This defendant received a sentence of two years of incarceration without any possibility of parole and three years of supervision.
- The money laundering statutes also carry considerable penalties.[30] U.S. Sentencing Guidelines provide for substantial enhancement of the prescribed period of incarceration in instances where terrorist activity is involved.

2(f): What procedures and mechanisms are in place to assist other states?

The U.S. provides assistance for criminal investigations or proceedings relating to terrorist acts through bilateral programs and as an active participant in multilateral programs.

- The U.S. provides training and technical assistance on money laundering and financial investigations to law enforcement, regulatory, and prosecutorial counterparts. The programs benefit anti-terrorist efforts by assisting other nations' anti-money laundering programs; assisting in creating financial intelligence units; and training financial investigators, bank regulators, and prosecutors to recognize and investigate suspicious transactions.
- The U.S. maintains mutual legal assistance treaties and agreements with over 45 countries, with more in negotiation or signed and awaiting Senate approval. They provide assistance in the investigation, prosecution, and suppression of criminal offenses, including those related to terrorism. For example, such treaties typically obligate the U.S. to provide foreign investigators and prosecutors with financial records, witness statements and testimony, and assistance in freezing and forfeiting criminally derived assets. Even in the absence of a treaty relationship, the U.S. may, under appropriate circumstances, provide a host of evidential assistance to foreign countries pursuant to our domestic law. The U.S. acts on hundreds of foreign requests for assistance in criminal matters every year.

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[28] E.g. 18 U.S.C. § § 2332a and 2332b

[29] While the terrorist financing statutes at 18 U.S.C. §§ 2339A and 2339B each authorize imposition of a period of 15 years incarceration for each violation, under the Sentencing Guidelines, a multiple count conviction could result in a sentence of considerably more time than 15 years.

[30] The maximum period of incarceration for a single violation of 18 U.S.C. § 1956 is 20 years. The maximum period of incarceration for a single violation of 18 U.S.C. § 1957 is 10 years.

- We assist in training other countries' counterterrorism task forces. Training includes major case management, terrorist crime scene management, advanced kidnapping investigations, and financial underpinnings of terrorism. Also, we make personnel available for assistance on a case-by-case basis. Pertinent information is shared on a regular basis with law enforcement entities around the world.
- The U.S. also maintains overseas International Law Enforcement Academies. Their courses include segments on financial crime and money laundering.

2(g): How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery etc?

- With few exceptions, all non-U.S. citizens entering the U.S. must have a valid visa or be exempted by holding a passport from one of 29 countries approved for visa waiver. Every visa applicant is subject to a name check through a database containing nearly six million records. At entry, everyone is subject to inspection. Inspectors are well trained to determine counterfeit and altered documents, and to detect evasive or untruthful responses. Every entering visitor is subject to checks in databases.
- A new, tamper-resistant visa will shortly replace the current visa. We are also working to improve the exchange of data among our agencies to ensure that anyone with a history of involvement with terrorism is quickly identified.
- Because of long common borders, movements to the U.S. from Canada and Mexico are difficult to control. Although cooperation with those governments is good, we are engaged in renewed discussions with both governments to improve border controls.
- American citizens must have a U.S. passport to enter the U.S. unless they have been traveling in North, Central or South America, in which case they may use other documents to verify their citizenship and identity. As we have no national identity card, the INS may rely on several other documents to establish identity and citizenship.
- Applicants for U.S. passports are required to prove their citizenship and identity. Those who fail to meet strict evidentiary requirements are not issued a passport. In addition, a vigorous fraud prevention program trains staff to identify attempts to use valid or falsified documents to obtain a passport in another identity. We can track how many passports one individual has received, and a system is being deployed to better track lost and stolen passports. The U.S. passport itself has recently been upgraded to prevent photographic substitution, the major form of alteration, and to make counterfeiting of the document very difficult. Visas are not issued to known terrorists.
- The Immigration and Naturalization Service also maintains a very proficient Forensic Document Laboratory (FDL), which helps other immigration services to identify fraudulent documents and trends. It routinely prepares "Document Alerts" on new, revised, counterfeit, and altered U.S. and foreign documents. Such alerts have been the basis for both criminal and administrative actions taken against individuals presenting counterfeit or altered documents. The FDL also works very actively to ensure that security marks and checks are embedded in travel and immigration documents, to minimize counterfeiting or alteration.
- The U.S. Border Patrol detects and prevents the smuggling and illegal entry of foreign nationals, primarily between the Ports of Entry. Agents perform their duties along, and in the vicinity of, the 8,000 land and 2,000 coastal miles of U.S. boundaries. In all its enforcement activities, the Border Patrol coordinates with counterterrorism efforts.
- In aviation security, the Federal Aviation Administration has issued a series of security advisories to U.S. and foreign air carriers to enhance passenger and baggage screening requirements, to establish

stricter controls on general aviation and tighten the rules on belly cargo in passenger planes. These measures, along with hardening cockpit doors, have upgraded the security of flights to, from and within the U.S.

- Threat assessments by U.S. agencies are continuous and the FAA passes information about terrorists or suspected *mala fide* passengers on a real time basis to airlines. Passengers are subject to multiple checks of their identity and bona fides from the time they apply for a visa to the point that they enter the U.S. If derogatory information is developed after the visa is issued, there are points at which the suspect can be apprehended and turned over to law enforcement services. In addition, the U.S. requires the advance transmission of passenger (and crew) manifests from all U.S.-bound flights. To help ensure that cockpit crews operating to the U.S. are not compromised by terrorist elements, the FAA has instituted additional requirements for background checks on pilots, co-pilots, and flight engineers.
- U.S. aviation security experts participate fully in the work of the International Civil Aviation Organization (ICAO) to strengthen the security annex (#17) to the Chicago Convention. Many recommended practices in the current annex are expected to be elevated to mandatory standards.
- The U.S. is an active participant in the ICAO Working Group on Machine-Readable Travel Documents, which has been working for more than a decade to establish international standards for passports, other travel documents, visas, and identity cards. Current U.S. travel documents and visas conform to the standards developed by this group and adopted by ICAO. Many countries have also improved their documents so they are more reliable.

UNSCR 1373 Operative Paragraph 3

3(a): What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this sub-paragraph?

The U.S. is making extensive efforts to accelerate the exchange of operational information in these areas with other states. Through a series of bilateral meetings and multinational conferences since September 11, senior officials have discussed the need for faster sharing of information.

- Multilaterally we have particularly worked with the Financial Action Task Force, the Egmont and Lyon Groups, the Group of 7 and Group of 20, the IMF and other international financial institutions and the Group of Eight (G-8) counter terrorism dialogue (including the Counterterrorism Experts Group).
- We have also worked with regional organizations such as the Organization of American States, the Organization of African Unity, the Association of South East Asian Nations, the European Union, the Council of Europe the Asia Pacific Economic Cooperation forum, the Manila Framework Group and the Organization for Security and Cooperation in Europe.

Exchanging Operational Information

- Since September 11, contacts between U.S. law enforcement officials and prosecutors and foreign officials have intensified. Legal Attaches overseas and foreign police authorities regularly share criminal intelligence. Operational information is also exchanged between U.S. and foreign prosecutors. Such exchanges are facilitated through designated "central authorities" under each of the U.S. Mutual Legal Assistance Treaties (MLATs). U.S. authorities and international organizations, such as INTERPOL, share operational information on the detection of fraudulent documents and alerts on terrorist suspects.

Exchanging Information on Arms, Explosives and Weapons of Mass Destruction

- The U.S. works with other nations to exchange operational information on terrorists, arms trafficking, explosives or sensitive materials, and weapons of mass destruction threats.
- We participate in multilateral export control regimes and encourage information sharing on weapons and associated technology that may be diverted to terrorists.
- Wassenaar Arrangement members recently agreed that preventing terrorist access to conventional weapons and associated dual-use items is an important new focus. We continue to take the lead in stressing the value of data exchanges on small arms/light weapons between OSCE and Wassenaar Arrangement countries.
- The U.S. National Tracing Center assists other nations to trace U.S.-origin weapons used in terrorist or criminal activities. Our assistance program for weapons stockpile management and security and destruction of surplus weapons is further sharing of information, focusing on countries with a high risk of illicit arms transfers, to keep these weapons from terrorists.
- The U.S. also exchanges information through bilateral, regional and multilateral initiatives to eliminate opportunities for terrorists to acquire weapons of mass destruction (WMD). Over 30 countries have cooperated with us to make counterterrorism an important new focus of the Australia Group (chemical/biological nonproliferation regime).
- The work of other regimes -- the Missile Technology Control Regime, the Nuclear Suppliers Group, and the Zangger Committee -- also is relevant to keeping sensitive technologies out of terrorists' hands.

- The U.S. works with the International Atomic Energy Agency and other organizations to increase the exchange of information aimed at strengthening controls over WMD-related materials and technologies. This has included export control dialogues, such as the Central Asian State Export Control and Border Security Program.
- The G-8 Nonproliferation Experts Group (NPEG) develops action plans to strengthen international instruments to prevent WMD proliferation, protect sensitive materials and facilities, encourage wider adherence to the principles of international export control arrangements, reinforce and better coordinate assistance programs, and enhance information exchange on illicit trafficking of sensitive materials, technology and expertise.
- The U.S. is also a key participant in the G-7 Nuclear Safety Working Group (NSWG), which works to strengthen controls on radiological sources.

Technology Transfer and Skills Training

- The U.S. uses other programs to enhance exchanges of information among law enforcement agencies. These include the Terrorist Interdiction Program (TIP), which provides information and training to identify terrorist suspects seeking to cross borders, and the Antiterrorism Assistance program, which provides assistance for border patrol and airport security. The U.S. is also helping INTERPOL to modernize equipment for faster transmission of fingerprints and other graphics to TIP participants.

Customs Information and Enforcement

- Under U.S. law, air carriers must provide advance passenger information to U.S. Customs by electronic transmission and prior to arrival in the United States. With this information, law enforcement agencies should be able to screen passengers to obtain information about the movement of suspected terrorists while reducing delays for other passengers entering the United States.
- U.S Customs maintains mutual assistance agreements with other countries' customs agencies, which allow the sharing of information during an investigation on the movements of people and cargo across borders.

3(b): What steps have been taken to exchange information and cooperate in the areas indicated in this sub-paragraph?

The U.S. has stepped up information exchanges through law enforcement and intelligence channels to prevent terrorist acts.

- We have mutual legal assistance treaties and agreements (see section 2 above for details). These provide for the exchange of information and evidence in investigating and prosecuting criminal offenses, and for the suppression or prevention of such offenses. Law enforcement cooperation to prevent terrorist acts has been enhanced by the broadened use of the U.S. Joint Terrorism Task Force domestically and the Legal Attaché Program internationally.
- Our intelligence and national security organizations have active programs to detect, preempt, disrupt, and defeat international terrorism. Many nations cooperate with us in fighting terrorism through information exchanges.

3(c): What steps have been taken to exchange information and cooperate in the areas indicated in this sub-paragraph?

- We have in place an extensive series of bilateral and multilateral agreements, such as MLATs (see above) for cooperation in preventing terrorist attacks and investigating and prosecuting perpetrators.
- In addition, the U.S. is party to ten of the twelve international conventions and protocols relating to terrorism, and expects to ratify the two most recent conventions (Terrorist Bombings and Terrorism Financing) in the near future. U.S. law enforcement authorities continue to cooperate with their counterparts in various countries around the world on the prevention of terrorist attacks and the investigation and prosecution of those who commit such acts, pursuant to the relevant agreements and other arrangements.
- The U.S. has prosecuted and convicted domestic and international terrorists in dozens of cases. Specifically the U.S. has prosecuted cases under U.S. laws implementing the Montreal Convention (Aircraft Sabotage),[31] the Hague Convention (Hijacking),[32] the Hostages Convention,[33] and the Internationally Protected Persons Convention.[34]

3(d): What are your government's intentions regarding signing and/or ratifying the conventions and protocols referred to in this sub-paragraph?

The U.S. is party to ten of the twelve relevant international conventions and protocols relating to terrorism, and expects to ratify the two most recent conventions (Terrorist Bombings and Terrorism Financing) in the near future.

3(e): Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this sub-paragraph?

The U.S. is a party to ten of the twelve conventions and protocols relating to terrorism. Legislation has been enacted to fully implement:

- The Convention on Offences and Certain Other Acts Committed On Board Aircraft, 1963 ("Tokyo Convention")[35]

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[31] U.S. v. Yousef, 1999 WL 714103 (S.D.N.Y. 1999) (defendant convicted of conspiring to bomb U.S. passenger airlines in violation of 18 U.S.C. § 32, the implementing statute of the Montreal Convention) [For list of charges, see U.S. v. Yousef, 925 F. Supp. 1063 (S.D.N.Y. 1996)].
Cf., U.S. v. Rashed, 234 F.3d 1280 (D.C. Cir. 2000)

[32] U.S. v. Rezaq, 134 F.3d 1121 (D.C. Cir. 1998) (affirming defendant's conviction for aircraft piracy in violation of 49 U.S.C. § 46501, the implementing statute of the Hague Convention).
Cf., U.S. v. Mena, 933 F.2d 19 (1st Cir. 1991); U.S. v. Pablo-Lugones, 725 F.2d 624 (11th Cir. 1984)

[33] U.S. v. Lue, 134 F.3d 79 (2d Cir. 1998) (affirming hostage-taking conviction/plea under 18 U.S.C. § 1203, the implementing legislation for the Hostages Convention). Cf., U.S. v. Lin, 101 F.3d 760 (D.C. Cir. 1996); U.S. v. Lopez-Flores, 63 F.3d 1468 (9th Cir. 1995); U.S. v. Carrion-Caliz, 944 F.2d 220 (5th Cir. 1991)

[34] U.S. v. Omar Ahmad Ali Abdel Rahman, et al., S.D.N.Y. (prosecution against ten defendants for conspiracy to bomb the U.N. and other public buildings and facilities and military installations, as well as conspiracy to murder Egyptian President Hosni Mubarak, the latter offense in violation of 18 U.S.C. §§ 1116 and 1117, the implementing statutes for the Internationally Protected Persons Convention; all defendants convicted on all counts; unreported trial court decision; post-trial decision, affirmed in part, remanded in part, 189 F.3d 88 (2d Cir. 1999), cert. denied, 528 U.S. 1094 (2000). Cf., U.S. v. Usama Bin Laden, et al., S.D.N.Y, no reported post-trial decision or appeal; U.S. v. Shirosaki, unreported case, D.D.C. 1998, affirmed without opinion, 194 F.3d 175 (D.C. Cir. 1999), cert. denied, 528 U.S. 1081 (2000)

[35] 49 U.S.C. §§ 46501, 06

- The Convention for the Suppression of the Unlawful Seizure of Aircraft, 1970 ("Hague Convention")[36]
- The Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, 1971 ("Montreal Convention")[37]
- The Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, 1973[38]
- The International Convention Against the Taking of Hostages, 1979 ("Hostages Convention")[39]
- The Convention on the Physical Protection of Nuclear Material, 1980[40]
- The Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, 1988, Supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation[41]
- The Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, 1988[42]
- The Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, 1988[43]
- The Convention on the Marking of Plastic Explosives for the Purpose of Detection, 1991[44]

- In addition, the U.S. has signed and expects to ratify in the near future the International Convention for the Suppression of Terrorist Bombings and the International Convention for the Suppression of the Financing of Terrorism. Implementing legislation for both has been submitted to the Congress.
- The U.S. has implemented Security Council resolutions 1269 and 1368 by working to become a party to all twelve of the conventions and protocols relating to terrorism, by fully implementing those agreements to which it is a party, and by establishing and implementing the measures discussed elsewhere in this submission.

3(f): What legislation, procedures and mechanisms are in place for ensuring asylum seekers have not been involved in terrorist activity before granting refugee status?

- The U.S. has several measures to ensure that asylum seekers have not been involved in terrorist activity before it grants them refugee status. A directive issued by President Bush on October 29, 2001 creates a Foreign Terrorist Tracking Task Force strengthening existing procedures. The Task Force will coordinate U.S. programs to: (1) deny entry of foreign nationals associated with, suspected of being engaged in or supporting terrorist activity; and (2) locate, detain, prosecute, or deport such foreign nationals in the U.S.
- The U.S. grants refugee status in two different forms: a) individuals applying from abroad may be admitted as refugees; b) refugees in the U.S. may be granted asylum. To be eligible for either status, an applicant must establish that he or she is unable or unwilling to return home because of past persecution or well-founded fear of future persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

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[36] 49 U.S.C. § 46501-02
[37] 18 U.S.C. § 31-32, 49 U.S.C. § 46501
[38] 18 U.S.C. §§ 112, 878, 1116 & 1201(e)
[39] 18 U.S.C. § 1203
[40] 18 U.S.C. § 831
[41] 18 U.S.C. § 37
[42] 18 U.S.C. § 2280
[43] 18 U.S.C. § 2281
[44] 18 U.S.C. §§ 841(o)-(p), 842(l)-(o), 844 (a)(1) & 845(c), 19 U.S.C. § 1595a, 18 U.S.C. § 842(m)-(o)

- The U.S. is a party to the 1967 Protocol Relating to the Status of Refugees, through which it undertook obligations found in the 1951 Convention Relating to the Status of Refugees. U.S. law contains several provisions that, together, implement the grounds for exclusion of refugee status found in the 1951 Convention including denial of refugee status to those involved in terrorist activity.
- Under U.S. law, those who apply for refugee status from outside the country are generally subject to the same grounds of inadmissibility as other applicants and cannot be granted refugee status if those grounds apply. Under the law, foreign nationals who engage in terrorist activity are inadmissible (see Section 2(c) above). This provision is enforced in the overseas refugee program through a screening process that relies on applicant interviews by U.S. immigration officials, checks of appropriate information databases, and security referral procedures to review and investigate cases. Experts provide consultative guidance on questionnaires, biometrics and other security mechanisms to immigration officials who adjudicate refugee protection claims.
- Slightly different safeguards apply in the domestic program. The law excludes from asylum any person who has engaged or may engage in terrorist activity, who incites terrorist activity, or who is a knowing member of a terrorist organization. Representatives of a terrorist organization, or of certain groups whose endorsement of terrorism undermines U.S. counterterrorism efforts, are also barred from asylum. An individual may also be excluded from asylum if there are good reasons for regarding the individual as a danger to the security of the U.S., or for believing that the individual has committed a serious non-political crime. U.S. law interpreting the serious non-political crime provisions make clear that, even if the crime involves political motivations, it is considered non-political if it is grossly out of proportion to the political objective, or if it involves acts of an atrocious nature. These provisions are enforced by screening procedures relying on fingerprint and identity checks and on databases that have information on criminal and terrorist activity.

3(g): What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedures which prevent claims of political motivation being recognized as grounds for refusing requests for the extradition of alleged terrorists.

- Once refugee or asylum status has been granted, U.S. law prohibits the abuse of such status by terrorists. The Foreign Terrorist Tracking Task Force created by Presidential Directive in October 2001 (see 3(f) above) coordinates programs to locate, detain, prosecute, or deport foreign nationals in the U.S. who are suspected of being engaged in or supporting terrorist activity.
- Persons admitted from abroad as refugees are subject to removal from the U.S. if they have engaged, or are engaged, in any terrorist activity, notwithstanding their refugee status. Also, in every case, a refugee is required to submit to inspection by INS at the end of one year. An immigration official examines the refugee to determine whether any grounds of inadmissibility apply and may deny the refugee permanent resident status on terrorism grounds.
- Similar safeguards ensure terrorists do not abuse asylum. Asylum can be terminated if it is determined that the asylee is subject to any of the bars to asylum, which include specific provisions excluding terrorists, as well as provisions excluding those who have committed serious nonpolitical crimes and those who can reasonability be regarded as a danger to the security of the U.S.
- Many modern U.S. extradition treaties provide that the political offense exception to extradition is not available for certain criminal offenses associated with terrorism, e.g. murder or other willful crimes against a head of state or family member and terrorist offenses specified in multilateral international agreements. These treaty provisions are U.S. law and have been applied in a number of cases.

- The U.S. also has signed and expects to ratify in the near future two multilateral terrorism conventions, those relating to Terrorist Bombings and Terrorist Financing, which have the effect of limiting the political offense exception to extradition.